

**RHODE ISLAND GOVERNMENT REGISTER  
PUBLIC NOTICE OF PROPOSED RULEMAKING**

**DEPARTMENT OF BUSINESS REGULATION (INCLUDES THE OFFICE OF THE  
HEALTH INSURANCE COMMISSIONER)**

**Title of Rule:** Medicare Supplement Insurance Minimum Standards

**Rule Identifier:** 230-RICR-20-30-7

**Rulemaking Action:** Proposed Amendment

**Important Dates:**

Date of Public Notice: 09/11/2018

Hearing Date: 09/26/2018

End of Public Comment: 10/11/2018

**Authority for this Rulemaking:**

R.I. Gen. Laws Chapter 27-18.2

**Summary of Rulemaking Action:**

This regulation, formerly OHIC Regulation 8, prescribes the minimum standards for insurers writing Medicare Supplement Insurance in Rhode Island.

The proposed amendment adds language to the existing regulation that complies with The Medicare Access and CHIP Reauthorization Act of 2015 ("MACRA"), which was signed into law on April 16, 2015. MACRA makes changes to Medigap policies that cover the Part B deductibles for "newly eligible" Medicare Beneficiaries on or after January 1, 2020. The following changes to the regulation are proposed:

- A new section 7.12 entitled "Standard Medicare Supplement Benefit Plans for 2010 Standardized Medicare Supplement Benefit Plan Policies or Certificates Issued for Delivery to Individuals Newly Eligible for Medicare on or After January 1, 2020."
- Given the addition, of this new section, the subsequent sections were renumbered along with any corresponding internal cross-references.
- An explanatory sentence was also added to § 7.11(F)(7).

Due to the potential penalties of not complying with the federal rule changes, this regulatory action is time sensitive. States that fail to adopt the changes risk losing their regulatory authority over Medicare Supplement Plans that include these MACRA provisions and are now delineated in the NAIC Medigap Model Regulation. Any person or company who sells or issues such policies to "newly eligible" Medicare beneficiaries after that date would be subject to fines, and/or imprisonment

of not more than five years, and/or civil money penalties of not more than \$25,000 for each prohibited act.

**Additional Information and Comments:**

All interested parties are invited to request additional information or submit written or oral comments concerning the proposed amendment until October 11, 2018 by contacting the appropriate party at the address listed below:

Alyssa R. Metivier  
Department of Business Regulation (includes the Office of the Health Insurance Commissioner)  
1511 Pontiac Ave  
Cranston, RI 02920  
alyssa.metivier@ohic.ri.gov

**Public Hearing:**

A public hearing, in accordance with R.I. Gen. Laws § 42-35-2.8, to consider the proposed amendment shall be held on September 26, 2018 at 1:00 pm at Department of Business Regulation/OHIC, Conference Room 69-1, 1511 Pontiac Ave, Bldg 69, Cranston, RI 02920 at which time and place all persons interested therein will be heard. The seating capacity of the room will be enforced and therefore the number of persons participating in the hearing may be limited at any given time by the hearing officer, in order to comply with safety and fire codes.

The place of the public hearing is accessible to individuals who are handicapped. If communication assistance (readers/interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call 401-462-9551 or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

**Regulatory Analysis Summary and Supporting Documentation:**

Section 401 of MACRA prohibits the sale of Medigap policies that cover Part B deductibles to "newly eligible" Medicare beneficiaries defined as those individuals who: (a) have attained age 65 on or after January 1, 2020; or (b) first become eligible for Medicare due to age, disability or end-stage renal disease, on or after January 1, 2020. This prohibition applies in all states including waiver states. Issuers selling such policies to "newly eligible" Medicare beneficiaries on or after January 1, 2020 are subject to fines, and/or imprisonment of not more than five years, and/or civil money penalties of not more than \$25,000 for each prohibited act. For "newly eligible" persons, references in the law to Medigap plans C and F are deemed as references to plans D and G.

Section 401 of MACRA does not close the previous blocks of business. MACRA states that for 'newly eligible' only "C or F shall be deemed, as of January 1, 2020, to be a reference to a Medicare Supplemental policy which has a benefit package classified as D or G respectively." MACRA does not state that all plans will have a

new effective date as of January 1, 2020. Therefore, except for C and F for "newly eligible" only, all other blocks of plans will remain in the same status as before January 1, 2020. The Federal Government has chosen to eliminate coverage for the Part B deductible making consumers responsible for that first dollar coverage. Section 401 of MACRA rule enforces this for "newly eligible" consumers and states must be compliant by January 1, 2020.

Plan F is the premier Medicare Supplement Plan essentially giving the beneficiary 100% coverage. Medicare base plan covers 80% of the outpatient benefits while the Medicare Supplement F plan covers both Part A (inpatient) and Part B (outpatient) deductible as well as the remaining 20%. The Medicare Part C is similar but doesn't cover the Medicare excess charges. These rich benefits come at a higher premium than other Medicare Supplement plans and are generally purchased by higher income individuals. Notable is that not covering a Part B deductible (2018 deductible is \$183.00 per beneficiary) will not impact current policyholders only newly eligible.

The basis for the elimination of Plan F and C as described is to address the higher utilization for this population of beneficiaries. Centers for Medicare and Medicaid Services (CMS) and Congress believes that there is a higher than necessary use of services because there is no or little out of pocket spend for Plan F and C beneficiaries driving up the cost of care. The higher cost of care for these populations ultimately drives up premiums across not only Plans F and C but other Medicare Supplement plans as well. There is some skepticism as to the effect on the premium rate for those who grandfather into the F and C plans expecting that these will increase at a faster rate than if the MACRA changes did not go into effect. CMS and the federal effort to eliminate first dollar coverage after 1/1/2020 firmly contend these changes will lead to a curbing of the overall Medicare spend for unnecessary services and will ultimately keep all premiums lower.

Finally, states that choose to retain regulatory authority over Medicare Supplement products offered in their state must implement these changes to federal laws impacting Medicare Supplement policies. Failure to adopt the current laws could result in a state losing regulatory authority over these products. Authority to regulate these products would revert back to the Federal Government.

For full regulatory analysis or supporting documentation see agency contact person above.